

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
Plaintiff,
v.
MORTEZA AMIRI and DEVON
CHRISTOPHER WENGER,
Defendants.

Case No. 23-cr-00269-JSW-1, 3

ORDER REGARDING JUROR NO. 1

The Court has received a communication from Juror No. 1 (formerly Juror No. 12) stating that he contacted his clinic and is unable to reschedule his weekly appointments for Tuesday afternoons due to clinic hours.¹ The Court previously declined to excuse Juror No. 1 for hardship given its understanding that Juror No. 1 could reschedule his appointments. (See Dkt. No. 332, Tr. of Proceedings, at 111:3-6 (“The Court: And do you know if you’re able to reschedule them [your appointments] if you’re selected? Prospective Juror: I can reschedule them, but it’s once every week.”).) In light of this new information, the Court is inclined to find that Juror #1 is unable to perform his duties as a juror and to replace Juror #1 with an alternate juror pursuant to Federal Rule of Criminal Procedure 24(c). The Court is concerned that permitting Juror No. 1 to continue his service could prejudice the Defendants, as Juror No. 1’s condition may impact his ability to focus during the trial.

The Court has broad discretion to determine that a juror is no longer able to perform his duties. *See United States v. Echavarria-Olarte*, 904 F.2d 1391, 1395 (9th Cir. 1990) (holding the determination is “the kind of question peculiarly suited to the exercise of discretion by the trial

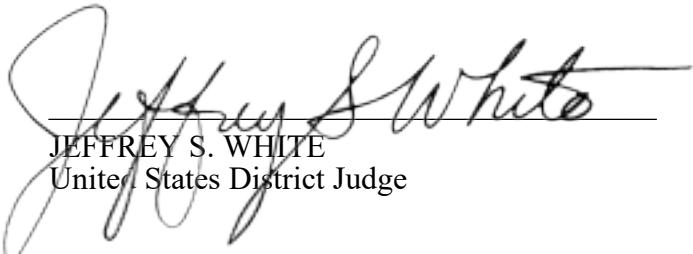
¹ The communication occurred via phone call to the Courtroom Deputy.

1 judge"); *United States v. Ciranda-Sanchez*, 448 F. App'x 696, 697 (9th Cir. 2011) (affirming trial
2 judge's decision to remove coughing juror despite her willingness to continue service as
3 "rational"); *Rivera v. Koenig*, No. 2:16-CV-00856-JKS, 2021 WL 1946444, at *6 (E.D. Cal. May
4 14, 2021) (noting "the Court is unaware of any case finding improper a trial court acquiescing in a
5 juror's statement alleging hardship that would affect the juror's ability to carry out her duties").
6 The Court intends to exercise its discretion to dismiss the juror on Monday, March 3, 2025, unless
7 a party has a serious objection supported by relevant legal authority.

8 The parties shall file any objections by **Monday, March 3, 2025, at 7:00 a.m.**

9 **IT IS SO ORDERED.**

10 Dated: February 28, 2025

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13 JEFFREY S. WHITE
14 United States District Judge
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